THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&

THE HON'BLE MR JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.12688 OF 2007

Dated: 26.06.2007

Between:

1. The Director General rep., by Union of India,
   All India Radio, Parliament Street, New Delhi and others.

..Petitioners

And

P. Vijaya Kumar Babu

.. Respondent.

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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.12688 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners challenging the order, dated 27.03.2007 passed by the Central Administrative Tribunal in O.A.No.840 of 2005.

The respondent herein is the applicant before the Tribunal.

Originally, the respondent-applicant filed the above O.A., aggrieved by his transfer from All India Radio, Vijayawada to All India Radio, Tezu in Arunachal Pradesh contending that he has an excellent record of service and that there were many complaints against petitioners 3 and 4 herein to the Minister for information & Broadcasting and Chief Executive Officer, Prasar Bharati, New Delhi and on suspicion that these complaints were made at the instigation of the applicant, they induced some person to make allegation against the applicant and made representation to the 1st petitioner herein, who issued the orders transferring the applicant. It is also the case of the applicant that there are no rules to post Pragramme Executive to perform the duties in a language other than the native language and there is also no common programme to be executed in all the States in one particular language.

On the other hand, the petitioners-authorities, who are respondents before the tribunal, filed reply statements along with FIR dated 14.6.2005 filed in Surya Rao Pet Police station, Vijayawada under Sections 347, 352, 506 and 509 IPC against the applicant for his misbehaviour of sexual harassment with a casual compere. They

contended in their reply statements that the applicant did not act promptly to the work assigned to him as a Programme Executive and because of his absence for a period of 10 days due to his involvement in criminal case, the programmes were disturbed and that the transfer of the applicant is only on administrative grounds and that the applicant used to execute Hindi and Urdu programmes and therefore, he is liable to work in any AIR in India and there is no discipline in respect of the language and therefore, the transfer of the applicant is justified.

On hearing the rival contentions of both the parties, the Tribunal having observed that the transfer of the applicant cannot be said to be on administrative exigencies, set aside the transfer orders and accordingly, allowed the O.A. Having aggrieved by the same, the present writ petition is filed by the authorities.

It is the case of the petitioners-authorities that the applicant should have been suspended from service instead of transfer, for his absence without any leave due to his involvement in criminal proceedings, which are severe, but the department has merely transferred him to Arunchala Pradesh and the said transfer is only on administrative grounds and that the finding of the tribunal in this regard that the transfer was made as a punitive measure, cannot be sustainable and therefore, the order of the tribunal is liable to be set aside.

As can be seen from the material available on record, there cannot be any dispute as to the involvement of the applicant in a criminal Case for his misbehaviour of sexual harassment with casual compere (Announcer), who attempted to commit suicide. Except making a bald statement that having suspected that the complaints were made against them by the applicant, petitioners 3 and 4 herein

made a representation, consequent to which, the 1st respondent issued the transfer orders, the applicant did not adduce any evidence in this regard and apart from that, the applicant failed to rebut the contention of the respondents as to his involvement in criminal case for his misbehaviour with the announcer. The FIR was lodged on 14.6.2005. Subsequently, the transfer of the applicant has been affected.

As a matter of fact, the Courts will not interfere with the administrative orders affecting transfers unless there are some malafides in that regard. The absence of the reason in the transfer order, for which, the applicant has been transferred, is not a criteria to be considered to draw an adverse inference against the authorities in view of the registration of the F.I.R. in question just prior to the passing of the order impugned therein.

In the above facts and circumstances of the case, we feel that the order of the tribunal is not justified and the same is liable to be set aside and consequently, the order of the transfer is confirmed.

Accordingly, the writ petition is allowed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 26.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.12688 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 26.06.2007